Cadwalader Vs. Wanamaker

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Appeal No. : 149 U.S. 532

Appellant : Cadwalader

Respondent : Wanamaker

Judgement :

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U.S. Supreme Court Cadwalader v. Wanamaker, 149 U.S. 532 (1893)

Cadwalader v. Wanamaker

No. 31

Argued April 11-12, 1893

Decided May 15, 1893

149 U.S. 532

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SYLLABUS

Imported articles, commercially known as ribbons, composed wholly or partly of silk and chiefly used for trimming hats, bonnets, or hoods, are dutiable at twenty percentum *ad valorem,* under Schedule N of the Tariff Act of March 3, 1883, 22 Stat. 488, c. 121.

The case of *Hartranft v. Langfeld,* 125 U. S. 128 , cited and approved.

The case *Robertson v. Edelhoff,* 132 U. S. 614 , cited, distinguished and approved.

The firm of John Wanamaker brought an action in the Court of Common Pleas of Philadelphia, State of Pennsylvania, against John Cadwalader, the collector of customs for that district, wherein it was sought to recover from the defendant moneys paid under protest by the plaintiffs to the defendant as collector of customs, as duties, in order to obtain possession of merchandise imported for the plaintiffs, which moneys were demanded and collected by defendant in excess of the amount authorized by law. This action was certified to the Circuit Court of the United States for the Eastern District of Pennsylvania, and there resulted in a verdict and judgment in favor of the plaintiffs, from which judgment the case is brought into this Court by a writ of error.

The matter in controversy arose under the Tariff Act of March 3, 1883, 22 Stat. 488, c. 121.

The plaintiffs claimed the imported articles were dutiable under Schedule N, which was in the following terms:

"Hats, and so forth, materials for: braids, plaits, flats, laces trimmings, tissues, willow sheets, and squares, used for making or ornamenting hats, bonnets, and hoods, composed

of straw, chip, grass, palm leaf, willow, hair, whalebone, or any other substance or material, not specially enumerated or provided for in this act, twenty percentum *ad valorem.* "

22 Stat. 512.

The defendant contended that he was right in having assessed the articles under Schedule L, which provided as follows:

"All goods, wares, and merchandise not specially enumerated or provided for in this act, made of Silk, or of which silk is the component material of chief value, fifty percentum *ad valorem.* "

22 Stat. 510.

In applying these respective clauses, the plaintiffs claimed that articles chiefly used to trim hats with are trimmings, dutiable at twenty percent. The defendant claimed that articles are not materials for hat trimmings when the imported articles bear the commercial name of ribbons, or belong to that commercial class; that, being made of silk, the imported articles in question fell within Schedule L, and that if the jury believed that the articles belonged to the class commercially distinguished under the general name of "ribbons," then the plaintiffs could not recover, even if their chief use was as trimmings for hats, as claimed by the plaintiffs.

The issues thus raised were submitted to the jury in a charge the correctness of which is the subject of our judgment.

The essential deliverances of the court, which determined the verdict of the jury, were in these words:

"Upon the uncontroverted proofs in this case, ribbons are trimmings. The issue here is, what kind of trimmings are the particular ribbons in controversy? Are they trimmings chiefly for hats, bonnets, or hoods? This is a question of fact for the jury, which, if answered in the affirmative, entitles the plaintiff to recover. I instruct you accordingly."

"If you are satisfied under the evidence, considering the preponderating weight of it, that these kinds of ribbons, such as you have here, are commonly and usually used for the ornamentation of hats, then the character of these goods is determined. "

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"These are the two facts that you are to consider and determine by your verdict: First, are these ribbons, of which you have samples here, trimmings, within the section of the act of Congress? And secondly, if so, are they used more largely than for any other purpose in the making and ornamentation of hats, bonnets, and hoods? These are the two facts, and as you determine them, this case must be decided."

"In a case that was decided by the Supreme Court which went up from this district, the Supreme Court has unquestionably held that articles which come within the description of this clause of the act are subject only to a duty of twenty percent -- that is, if they are trimmings, and if they are used for making and ornamenting hats, they are classifiable under this clause of the act of Congress, and are subject to a duty of only twenty percent"

"It is immaterial to inquire whether the Supreme Court in terms has said anything about the silk clause. They have determined that articles which are of the character described here, and for the use stated, come within that clause, and are subject only to a duty of twenty percent. That is incontestable. So that by that ruling of the Supreme Court we are governed, and must so expound the law in cases occurring afterwards, and relating to articles of a similar character. "

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MR. JUSTICE SHIRAS delivered the opinion of the Court.

It will be observed that the court below was controlled in its charge by the decision of this Court in the case of *Hartranft v. Langfeld,* 125 U. S. 128 , and construed that decision as ruling that if the imported articles were trimmings and were more

generally used for the ornamentation of hats than for any other purpose, then such articles must be regarded as coming within Schedule N of the Tariff Act of 1883, and subject to a duty of twenty percentum.

An examination of that case in the light of the extended criticism bestowed upon it in the briefs filed in the present case satisfies us that the court below did not misinterpret the decision. The case was in all important respects like the present one. It was an action by an importer to recover an alleged illegal excess of duties, and wherein ribbons made of silk and cotton, of which silk was the material of chief value, were the articles in question. The testimony on the part of the plaintiff tended to show that the ribbons were chiefly used in making or ornamenting hats, bonnets, and hoods, but that they might be, and sometimes were, used for trimming dresses. The testimony on the part of the defendant tended to show that they were dress trimmings equally with hat trimmings, and were commonly used as much for the one purpose as the other. In this state of the evidence, the trial court charged the jury thus:

"It is the use to which these articles are chiefly adapted, and for which they are used, that determines their character within the meaning of this clause of the tariff act. . . . It is the predominant use to which articles are applied that determines the character. . . . You will therefore determine to which use these articles in question are chiefly devoted. If they are hat trimmings, and used for making and ornamenting hats, then the rate of duty was excessive. . . .

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The question is simply and purely one of fact -- namely, what is the predominant use to which these articles are devoted? As you determine that question, you will return your verdict."

These instructions were approved by this Court, and the judgment of the court below in favor of the importer was affirmed.

It is quite apparent that if the law was correctly laid down in *Hartranft v. Langfeld,* the court below in the present case did not err in its treatment of the subject.

Substantially the same question came afterwards before this Court in the case of *Robertson v. Edelhoff,* 132 U. S. 614 , on error to the Circuit Court for the Southern District of New York. Again the question was as to the correct classification, under the Act of March 3, 1883, of ribbons composed of silk and cotton, in which silk was the component material of chief value. The court below gave peremptory instructions to the jury to find for the plaintiff, the undisputed evidence being that the articles in question were used exclusively as trimmings for ornamenting hats and bonnets, and had a commercial value only for that purpose, and this action of the trial court was approved by this Court in an elaborate opinion.

It will be noticed that the case of *Robertson v. Edelhoff* differs from the case of *Hartranft v. Langfeld* and from the present case in the particular that the fact was conceded that the ribbons in question were exclusively used for hat trimmings, and that question was not submitted to the jury, whereas in the other cases, there was conflicting evidence as to the use made of the ribbons, and it was submitted to the jury to find what was the chief or predominant use made of the articles.

In view of these decisions of this Court, it is evident that the court below in the present case cannot be convicted of error.

A very earnest and able effort has been made on behalf of the government to lead us to reconsider the doctrine of those cases.

We have read with care the elaborate briefs submitted to us by the Solicitor General, but as we are unable to accept

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the conclusions there urged upon us, nothing could be gained by a minute discussion of the several arguments advanced. If the subject had come before us unembarrassed by previous decisions it would have been worthy of a more thorough discussion. As it is, we are content to abide by the views that have heretofore prevailed in this Court, expressed in two unanimous decisions.

The judgment of the court below is accordingly

Affirmed.